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October 21, 2003

***Via Electronic Mail Delivery***

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***Re: Written Ex Parte Communication***  
***Wireless Local Number Portability Implementation***  
***CC Docket No. 95-116***

Gentlemen:

Sprint Corporation below responds to certain representations made recently by representatives of the National Telecommunications Cooperative Association ("NTCA") and the Organization for the Promotion and Advancement of Small Telecommunications Carriers ("OPASTCO") concerning porting between rural incumbent local exchange carriers ("RLECs") and wireless carriers.<sup>1</sup> Sprint demonstrates that some of the factual representations NTCA and OPASTCO made to the Commission are inaccurate.

**A. Wireless Porting Will Not Change How LECs Rate Their Land-to-Mobile Calls**

NTCA/OPASTCO told the Commission in their September 29, 2003 meeting that a call to a number that is local today may be converted into a toll call if the person being called ports his telephone number to a wireless carrier:

Rural LEC Subscriber calling a Rural CMRS phone number in the morning; the call Routes and Rates as "local." The same call placed by the same LEC customer to the same CMRS number later in the day, once the rural CMRS number has been ported, is routed and/or rated as toll.<sup>2</sup>

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<sup>1</sup> See Letter from Jill Canfield, NTCA Regulatory Counsel, to Marlene H. Dortch, FCC Secretary, CC Docket No. 95-116 (Sept. 30, 2003) ("NTCA Letter").

<sup>2</sup> NTCA Letter, Attachment at 4.

This statement is factually inaccurate as Sprint has previously pointed out to NTCA and OPASTCO.<sup>3</sup> As the Commission has observed, under the current system used “industry-wide,” LECs rate calls as local or toll by “comparing the originating and terminating NPA-NXX codes.”<sup>4</sup> If the NPA-NXX codes of the calling and called parties are rated to the same local calling area, the LEC serving the calling party will rate the call as local.<sup>5</sup> Conversely, if the NPA-NXX codes of the calling and called parties are rated to different local calling areas, the LEC serving the calling party will rate the call as toll.

The NPA-NXX code in a telephone number does not change when the number is ported from one service provider to another, and porting also does not change the rate center association of the telephone number.<sup>6</sup> Accordingly, if a call to a number is local in the morning, it necessarily will continue to be rated as local in the afternoon – even if the called number is ported to another service provider in the meantime. Simply stated, with the introduction of service provider portability, including LEC-to-wireless porting, a LEC does not change in any way the way it rates its own customers’ calls. Whether a land-to-mobile call involves a ported or non-porting number, the LEC will continue to rate its customers’ calls by reference to the originating and terminating rate centers, as it always had done.

Nor will wireless ported numbers change the dialing patterns of LEC customers or involve the loss of seven-digit local dialing, as BellSouth has recently asserted.<sup>7</sup> If a LEC customer can dial a non-porting number with only seven digits, that LEC customer will continue to dial seven digits if the number is ported to a wireless carrier. Any LEC attempt to require its customers to dial additional digits in calling a wireless customer with a ported number would contravene the dialing parity mandate.<sup>8</sup>

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<sup>3</sup> Sprint has previously pointed out that the NTCA/OPASTCO call rating assertion is factually inaccurate. See Sprint Reply Comments, CC Docket No. 95-116, at 13-14 (March 13, 2003); Sprint Reply Comments, CC Docket No. 95-116, at 12-13 (June 24, 2003).

<sup>4</sup> *Virginia Arbitration Order*, 17 FCC Rcd 27039, 27181-82 ¶ 301 (2002).

<sup>5</sup> Local calling areas can be (and often are) larger than individual rate centers. See, e.g., Letter from Cronan O’Connell, Qwest Vice President, to Marlene H. Dortch, FCC Secretary, CC Docket No. 95-116, at 2 n.2 (Sept. 17, 2003) (“Qwest averages two rate centers per local calling area.”). The ILEC concerns over “competitive parity” could largely be addressed if they made their rate center boundaries coextensive with their local calling area boundaries. Such action would also improve number utilization efficiency.

<sup>6</sup> Thus, if a non-porting number is “rated” to Rate Center A, the number will remain “rated” to Rate Center A if the customer ports the number to a wireless carrier.

<sup>7</sup> See Letter from Herschel L. Abbott, BellSouth Vice President, to the Hon. Michael K. Powell, FCC Chairman, CC Docket No. 95-116, at 5 (Oct. 14, 2003).

<sup>8</sup> See 47 U.S.C. § 251(b)(3); 47 C.F.R. § 51.207; *Second Local Competition Order*, 11 FCC Rcd 19392, 19429 ¶ 68 (1996) (“We reject USTA’s argument that the section 251(b)(3) dialing parity requirements do not include an obligation to provide dialing parity to CMRS providers. To the extent that a CMRS provider offers telephone exchange service, such a provider is entitled to receive the benefits of local dialing parity.”).

**B. Wireless Carriers Are Not Required to Interconnect Directly with RLECs as a Condition to RLEC Provision of LNP and ILEC Transport Costs Are Caused by the Interconnection Rules, Not the LNP Requirement**

NTCA/OPASTCO state that “urban” wireless carriers have no “local” interconnection with RLECs and that as a result, RLECs will face increased transport costs in delivering traffic to an “urban” wireless carrier if the wireless customer uses a LEC ported number.<sup>9</sup> It is apparent that by “local” interconnection, NTCA/OPASTCO mean direct interconnection to a RLEC network. In point of fact, the Commission’s interconnection rules do not require direct interconnection with RLEC networks; the Commission has specifically held that indirect interconnection is acceptable in a LNP environment; and direct interconnection is not needed to activate a customer’s port request.

FCC rules specify that a LEC is required to provide the type of interconnection that a wireless carrier requests.<sup>10</sup> The Commission has further recognized that wireless carriers can choose to interconnect indirectly with LECs “based upon their most efficient technical and economic choices.”<sup>11</sup> Since the inception of the mobile telephony industry 20 years ago, wireless carriers have utilized Type 2A interconnection, whereby they interconnect directly with the LATA tandem switch and, in the process, interconnect indirectly with other carriers that subtend the tandem, including RLECs.<sup>12</sup> Type 2A interconnection is consistent with the “single point of interconnection per LATA” rule.<sup>13</sup> With indirect interconnection, a RLEC would route a land-to-mobile call to the LATA tandem switch over the existing trunk connecting the RLEC’s network to the tandem switch.<sup>14</sup>

<sup>9</sup> See NTCA Letter, Attachment at 2 and 3.

<sup>10</sup> See 47 U.S.C. § 20.11(a). See also *Bowles v. United Telephone*, 12 FCC Rcd 9840, 9849 ¶ 15 (1997); *Third Radio Common Carrier Order*, 4 FCC Rcd 2369, 2376 ¶ 47 (1989).

<sup>11</sup> See *First Local Competition Order*, 11 FCC Rcd 15499, 15991 ¶ 997 (1996). See also 47 U.S.C. § 251(a)(1); *Virginia Arbitration Order*, 17 FCC Rcd 27039, 27085 at ¶ 88 (2002).

<sup>12</sup> See, e.g., *LEC-Wireless Carrier Interconnection Policy Statement*, 59 R.R.2d 1275, 1284 (1986); *LEC-Wireless Carrier Interconnection Declaratory Ruling*, 2 FCC Rcd 2910 ¶ 4, 2913 ¶ 29 (1987). See also Bellcore, *Notes on the Network*, TR-NPL-000275, Section 16, Cellular Mobile Carrier Interconnection, at 16-2 § 2.03 (April 1986) (“Type 2A interconnection is at the MTSO and a designed BOC tandem switching system. Through this option, the CMC [Cellular Mobile Carrier] can establish intra-LATA connections to BOC end offices connected to the tandem and to other carriers interconnected through the tandem.”)(emphasis added).

<sup>13</sup> See *Unified Intercarrier Compensation NPRM*, 16 FCC Rcd 9610, 9634 ¶ 72 (2001); *Virginia Arbitration Order*, 17 FCC Rcd 27039, 27064 at ¶ 52 (2002). Moreover, it bears remembering that “local” for purposes of the interconnection/reciprocal compensation rules, as applied to traffic exchanged between LECs and wireless carriers, refers to any call that “originates and terminates within the same Major Trading Area.” 47 C.F.R. § 51.701(b)(2).

<sup>14</sup> NTCA/OPASTCO characterize this facility to the tandem switch as a “toll” circuit. See NTCA/OPASTCO Letter, Attachments 2-4. However, these “toll” facilities would be used to route a local call between a RLEC customer and his next door neighbor who happens to use a wireless handset.

Indeed, the Commission has explicitly ruled that carriers may interconnect indirectly in a LNP environment:

Moreover, to provide number portability, carriers can interconnect either directly or indirectly as required under Section 251(a)(1).<sup>15</sup>

And, the Commission recently held that, under the wireless LNP rule, a wireless carrier may not refuse to port a number because the requesting carrier does not interconnect directly with the port-out carrier.<sup>16</sup> Given the similarity between the LEC and wireless LNP rules, coupled with the Commission's previous holding that indirect interconnection can be used with LNP, the Commission should reach a similar result with regard to LEC-wireless porting.

Instead, if NTCA/OPASTCO want the Commission to require wireless carriers to interconnect directly with RLEC networks – whether for ported or non-porting numbers – they must submit a petition for rulemaking that seeks to change existing interconnection rules.

NTCA/OPASTCO allege, however, that LNP and use of Type 2A interconnection “shifts the cost for delivering traffic to the ported number from the Receiving Carrier to the Rural LEC.”<sup>17</sup> This assertion is not accurate. To be sure, RLECs face transport (and reciprocal compensation) costs if their customer calls a person served by another carrier rather than another RLEC customer (where the call remains within the RLEC network). But these transport (and reciprocal compensation) costs are incurred, not because of LNP, but because of Sections 251(a) and 251(b)(5) of the Act and the Commission's implementing rules.<sup>18</sup>

For example, assume that a wireless carrier has obtained its own NXX code rated to a RLEC rate center that the wireless carrier uses in providing its services to residents of the area. If a RLEC customer calls this wireless customer (a local call because the originating and terminating numbers are rated to the same rate center), the RLEC will incur the same transport and reciprocal compensation costs that it would incur if the RLEC customer instead calls a wireless customer with a ported number.

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<sup>15</sup> *First LNP Reconsideration Order*, 12 FCC Rcd 7236, 7305 ¶ 121 (1997)(emphasis added).

<sup>16</sup> See *Telephone Number Portability: Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, CC Docket No. 95-116, *Memorandum Opinion and Order*, FCC 03-237, at ¶ 21 (Oct. 7, 2003) (“Nothing in the rules provides that wireless carriers must port numbers only in the cases where the requesting carrier has numbering resources and/or a direct interconnection in the rate center associated with the number to be ported, and wireless carriers may not demand that carriers meet these conditions before porting.”).

<sup>17</sup> NTCA/OPASTCO Letter, Attachment at 3.

<sup>18</sup> NTCA/OPASTCO confuse the issue by referring to these transport costs as “toll costs.” See NTCA/OPASTCO Letter, Attachment at 3. At issue are not simply calls that originate and terminate within the same MTA, but also calls that originate and terminate in the same RLEC rate center (e.g., a person uses the RLEC service to call her spouse's mobile handset at the local grocery store). This is clearly a local call, and the fact that a RLEC may be to deliver the call to the wireless carrier “outside the originating rate center” does not change the local character of the call or convert the RLEC's costs into “toll costs.”

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In the end, the NTCA/OPASTCO concerns over transport costs are directed not to the LNP rule, but to the interconnection regime that Congress established in Section 251 of the Act and the rules the Commission adopted to implement the Act. Again, if NTCA/OPASTCO want the Commission to change the current interconnection rules, they must file a petition for rule-making.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, one copy of this letter is being filed electronically with the Secretary's office for filing in CC Docket No. 95-116.

Respectfully submitted,



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